APPEAL NO. 031430
FILED JULY 22, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq*. (1989 Act). A contested case hearing was held on May 7, 2003. With respect to the issue before him, the hearing officer determined that the respondent's (claimant) impairment rating (IR) is 22% as certified by the designated doctor selected by the Texas Workers' Compensation Commission (Commission). In its appeal, the appellant (carrier) argues that the hearing officer erred in giving presumptive weight to the designated doctor's IR and asks that we determine the claimant's IR in accordance with the report of Dr. M, the carrier's required medical examination doctor. The appeal file does not contain a response to the carrier's appeal from the claimant.

DECISION

Affirmed.

There is no dispute that the claimant sustained a compensable injury on December 14, 2000; that the claimant reached maximum medical improvement on March 11, 2002; and that Dr. F is the designated doctor selected by the Commission. The hearing officer did not err in determining that the great weight of the other medical evidence is not contrary to the report of the designated doctor, thus the hearing officer properly determined that the claimant's IR is 22%. In this instance, the difference between the IRs of Dr. F and Dr. M is attributable to a difference in medical opinion as to the appropriate impairment to assign to the claimant pursuant to the Guides to the Evaluation of Permanent Impairment, fourth edition (1st, 2nd, 3rd, or 4th printing, including corrections and changes as issued by the American Medical Association prior to May 16, 2000). The statute gives presumptive weight to the designated doctor's reconciliation of such a difference. *See* Sections 408.122(c) and 408.125(e). The opinion of Dr. M on the correct IR simply does not rise to the level of the great weight of the medical evidence contrary to the designated doctor's report. As such, the hearing officer did not err in giving presumptive weight to the designated doctor's certification and determining that the claimant's IR is 22%.

The carrier also contends that the hearing officer erred in his Finding of Fact No. 9 by stating, "Dr. [M] did not include the cervical spine injury in his impairment evaluation." As the carrier noted, Dr. M considered the cervical injury and assigned a zero percent IR for the cervical spine. Thus, the hearing officer's Finding of Fact No. 9 is incorrect. Nonetheless, we cannot agree that the hearing officer's error is reversible error because its inclusion "was not reasonably calculated to cause and probably did not cause the rendition of an improper judgment." Hernandez v. Hernandez, 611 S.W.2d 732 (Tex. Civ. App.-San Antonio 1981, no writ).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **LUMBERMENS MUTUAL CASUALTY INSURANCE COMPANY** and the name and address of its registered agent for service of process is

CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.

_____
Elaine M. Chaney
Appeals Judge

CONCUR:

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Veronica Lopez-Ruberto
Appeals Judge

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Margaret L. Turner
Appeals Judge